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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Charles Allen Black, Jr.	Confirmation No.:	3518
Appl No.:	09/956,998	Group Art Unit:	1635
Filed:	September 20, 2001	Examiner:	Sean McGarry
For:	COMPOSITIONS AND METHODS FOR ACTIVATING GENES OF INTEREST		

October 30, 2003

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action dated October 1, 2003, in which the Examiner has required restriction between Group I, namely Claims 1-6, and Group II, namely Claims 7-12. Applicant hereby provisionally elects with traverse to prosecute the claims of Group II (Claims 7-12) and expressly reserves the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

Group I is drawn to a single RNA molecule with one antisense strand attached, whereas Group II is drawn to a single RNA molecule with a plurality of antisense strands attached. It is submitted that the search required to determine the patentability of the nucleic acid molecule in Group I (Claims 1-6) is essentially the same search that would be required for Group II (claims 7-12) drawn to an RNA molecule with more than one antisense strand attached.

According to M.P.E.P. § 803.01, there must be a serious burden on the Examiner to examine the two groups together. Searching Groups I and II does not meet this standard because a search within one group will yield the same relevant art as in the other group. Group II has a plurality of the second strands. Thus, it has at least one second strand. Consequently, a search encompassing a plurality of second strands (as in Group II) necessarily yields RNA with at least one strand—the same art as in a Group I search.

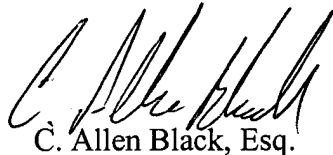
The Examiner is further directed to Figure 3 of the application. Shown are three antisense strands bound to the RNA molecule as in Group II, but it is apparent that removing two of the three antisense strands does not change the nature of the RNA molecule, even though the one-strand structure has been classified as Group I. Further, if the quantity of references obtained presents an

undue burden, Applicant points out that restriction can in fact be made at any time during prosecution, so the Examiner can still avoid any undue burden that could result from rejoinder of claims. Therefore, it is requested that the Examiner reconsider and examine Groups I and II together because no serious or undue burden exists.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned attorney so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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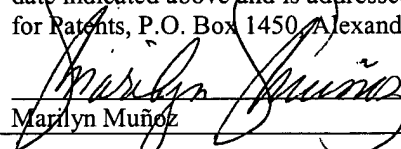
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Date of Deposit October 30, 2003

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